



UNITED STATES PATENT AND TRADEMARK OFFICE

CH/

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/809,158	03/15/2001	Carol O. Cowing	LANCELL.002CPI	5364
20995	7590	10/16/2006	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				CANELLA, KAREN A
ART UNIT		PAPER NUMBER		
		1643		

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/809,158	COWING, CAROL O.
	<b>Examiner</b>	<b>Art Unit</b>
	Karen A. Canella	1643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 60,63,66,67,71,73-76,78-84 and 86 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 60,63,66,67,71,73-76,78-84 and 86 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1)  Notice of References Cited (PTO-892)  
 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3)  Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 11/21/05; 11/22/04.

4)  Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5)  Notice of Informal Patent Application  
 6)  Other: IDS 12/15/03.

### **DETAILED ACTION**

Claims 64, 65, 68-70, 72 and 85 have been canceled. Claims 60, 63, 66, 67, 71, 73-76, 78, 80 and 82-84 have been amended. Claim 86 has been added. Claims 60, 63, 66, 67, 71, 73-76, 78-84 and 86 are pending and under consideration.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 60, 63, 66, 67, 71, 73-76, 78-84 and 86 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,210,672 in view of Horsburgh et al (U.S. 6,277,621). The claims of the '672 patent teach the administration of the chemical inducers of Langerhan's cell migration that are the same as those of the instant claims; claims 7 and 16 of the '672 patent teaches low-frequency ultrasound as a means of enhancing Langerhan's cell migration which anticipates the instant claim 86 reliant on ultrasound as a means for inducing Langerhan's cell migration. The claims of the '621 patent teach the administration of tumors, viruses, bacteria and parasites as a source of antigen (claim 15) and the further administration of organic solvent, such as acetone (claim 11). The claims of the '621 patent teach the intraepidermal delivery of antigen (claim 1) and the administration of the antigen specifically to an epidermal site (claims 16 and 17). The claims of the '621 patent do not specify delivery of the antigen via injection.

Horsburgh et al teaches injection as a method which is well known in the art for intraepidermal administration.

It would have been prima facie obvious, at the time the claimed invention was made, to carry out the epidermal administration of antigen as taught in the claims of the '621 patent by intraepidermal injection. One of skill in the art would have been motivated to do so because intraepidermal injection is well known in the art as exemplified by the teachings of Horburgh et al.

All other rejections and objections as set forth or maintained in the previous Office action are withdrawn in light of applicants amendments and arguments.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen A. Canella whose telephone number is (571)272-0828. The examiner can normally be reached on 10-6:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms can be reached on (571)272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



KAREN A. CANELLA PH.D  
PRIMARY EXAMINER

Karen A. Canella, Ph.D.

10/1/2006